

From: Jill Nobles-Botkin
Sent: Thursday, March 1, 2018 5:50 PM
To: Joyce Y Marshall
Cc: Jill Nobles-Botkin
Subject: RE: legislative inquiry on family planning \$

There is not any language anywhere suggesting Title X funds can be used after pregnancy is achieved. The purpose of Title X funds is to assist families in determining the number and spacing of their children and assistance with achieving pregnancy. Title X funding stops at achieving pregnancy – not taking care of women after they are pregnant. Title X requires information and counseling be provided about all options (including termination) and the Choosing Childbirth Act requires support for women carrying their children to term – nothing about providing information on all options. Here is what I could quickly find in the requirements and the federal statute. I also commented below that if they would somehow pass this, it would require a change in scope from the grant application submitted in May and I don't see OPA approving us taking funds away from contraceptives to support pregnancy crisis centers.

From the Program Requirements for Title X Funded Family Planning Project @
https://www.hhs.gov/opa/sites/default/files/ogc_cleared-final-april.pdf

To assist individuals in determining the number and spacing of their children through the provision of affordable, voluntary family planning services, Congress enacted the Family Planning Services and Population Research Act of 1970 (Public Law 91-572). The law amended the Public Health Service (PHS) Act to add Title X, "Population Research and Voluntary Family Planning Programs." Section 1001 of the PHS Act (as amended) authorizes grants "to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)."

CFR Title 42/Chapter 1/Subchapter D/Part 59

§59.1 To what programs do these regulations apply?

The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. **These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.**

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]

§59.5 What requirements must be met by a family planning project?

(a) Each project supported under this part must:

- (1) Provide a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including infertility services and services for adolescents). If an organization offers only a single method of family planning, it may participate as part of a project as long as the entire project offers a broad range of family planning services.
- (2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other services, assistance from or participation in any other program of the applicant.¹

¹Section 205 of Pub. L. 94-63 states: "Any (1) officer or employee of the United States, (2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or (3) person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

- (3) Provide services in a manner which protects the dignity of the individual.

- (4) Provide services without regard to religion, race, color, national origin, handicapping condition, age,

sex, number of pregnancies, or marital status.

(5) Not provide abortion as a method of family planning. A project must:

(i) Offer pregnant women the opportunity to be provided information and counseling regarding each of the following options:

(A) Prenatal care and delivery;

(B) Infant care, foster care, or adoption; and

(C) Pregnancy termination. The Choosing Childbirth Act is clear about providing funds to assist pregnant individuals in carrying their children to term. There is no option for providing any education about termination.

(ii) If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling.

(b) In addition to the requirements of paragraph (a) of this section, each project must meet each of the following requirements unless the Secretary determines that the project has established good cause for its omission. Each project must:

(1) Provide for medical services related to family planning (including physician's consultation, examination prescription, and continuing supervision, laboratory examination, contraceptive supplies) and necessary referral to other medical facilities when medically indicated, and provide

for the effective usage of contraceptive devices and practices. (The Federal Title X staff do not see pregnancy crisis centers as credible medical facilities to refer to)

§59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?

(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will in the Department's judgment best promote the purposes of section 1001 of the Act, taking into account:

(1) The number of patients, and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally; This says the funds are awarded based on the need to family planning services to plan, space and achieve pregnancy -

(3) The relative need of the applicant;

§59.9 For what purpose may grant funds be used?

Any funds granted under this subpart shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in 45 CFR part 75, subpart E. By the time this law in enacted – if passed we will have submitted the Title X Grant for the next three years. So even if they determined we could use Title X funds – we would have to submit a change in scope and I honestly don't see OPA approving a change in scope which takes funds away from contraceptives to support women already pregnant.

From: Joyce Y Marshall

Sent: Thursday, March 01, 2018 4:48 PM

To: Jill Nobles-Botkin

Subject: FW: legislative inquiry on family planning \$

Importance: High

Hi Jill,

Can you send me a quick reply that I can forward on since I am out of the office and can't pull up attachments and read them from my iphone? I answered the first set of questions in relation to funding earlier this afternoon so don't need to worry about that.

I know that the grant outlays specific requirements that we must address with those funds pursuant to the

proposal awarded, along with federal rules and regulations in regard to those funds. However, if you can give me more specifics (quotes from Title X) that would specifically address Calvey's bill I would appreciate it!

Thanks!



Joyce Marshall, MPH
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From: Buffy Heater
Sent: Thursday, March 01, 2018 3:13 PM
To: Joyce Y Marshall
Subject: RE: legislative inquiry on family planning \$

As a follow up – has the “Choosing Childbirth Act” been implemented by OSDH? (It was the result of passage of HB1703 in the 2017 session http://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20ENR/hB/HB1703%20ENR.PDF)

Could federal family planning dollars be redirected to the Choosing Childbirth Act programs – as is being suggested in Rep. Calvey's bill this session HB3676? http://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20INT/hB/HB3676%20INT.PDF

Or are there restrictions on the federal family planning dollars – that would prevent their use for the CCA program?

Thank you!

From: Buffy Heater
Sent: Thursday, March 01, 2018 12:07 PM
To: Joyce Y Marshall
Subject: legislative inquiry on family planning \$
Importance: High

Hi Joyce,

We've received a legislative inquiry asking how much money the OSDH receives from federal family planning dollars?

Do you have a ballpark amount for the most recent annual amount?

Would appreciate any info you can provide asap – thank you!

Buffy Heater, MPH

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